

2005 FEB - 7 A 10:19

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington DC 20463

January 27, 2005

Re: MUR 5636

Dear Mr. Jordan:

I have received your letter dated January 13, 2005 regarding the complaint filed by Mr. Dan Hayward, Executive Director of the Republican State Committee of Pennsylvania, alleging violations of the Federal Election Campaign Act of 1971, as amended.

Pursuant to this matter, I am writing to demonstrate that no further action is warranted by the FEC and that Mr. Hayward's complaint should be dismissed as frivolous, poorly researched and uninformed.

In paragraph four of his letter, Mr. Hayward states that I have "not filed revenues or expenditures" with the FEC. No such filing is required until a \$5000.00 threshold for contributions or expenditures is crossed. My federal campaign never reached that threshold - in fact, my federal campaign incurred absolutely no expenditures other than a few out-of-pocket expenses I paid myself.

In paragraphs five and six, Mr. Hayward alleges that materials used to promote my federal candidacy were purchased with funds raised by my state campaign committee and cites the use of the "Paid for by russdiamond.org" disclaimer as evidence.

I printed a total of 250 copies of my federal flyer in my office on a color laser printer I lease for my business, a sole proprietorship. I personally purchased the stock it was printed on. I also personally designed the flyer. All in all, my total cost to produce these flyers was \$4.50 for the paper stock.

Regarding the use of the "Paid for by russdiamond.org" disclaimer, it is not a reference to my state campaign committee. Russdiamond.org is also the name I planned to use for a federal campaign committee, however, such a need never developed. The use of this disclaimer on my federal flyer was appropriate in anticipation of possible future outside contributions to the federal campaign.

The simultaneous use of such a name by both a federal campaign committee and a state campaign committee does not constitute a violation of any regulation so long as federal campaign funds and state campaign funds are not commingled. Every contributor to russdiamond.org was specifically notified in advance that his or her contribution would be applied to the state campaign.

In paragraph seven, Mr. Hayward raises questions about a shared campaign website and the use of my office at 109 West Main Street, Annville PA.

Regarding the shared website, on August 2, 2004, I personally reimbursed my state campaign committee for \$92.66 for the appropriate pro-rated portion of the

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rusddiamond.org website used for federal campaign information. As evidence of this, please review the enclosed printout of my state campaign committee's finance report for the period ending October 18, 2004. This information is freely available to the general public through the Pennsylvania Department of State website. Since I personally designed and coded the federal information on the website, no other expenses were incurred.

Regarding my office in Annville, I have leased this space for my business, a sole proprietorship, since June 1999. The space continues to be used for this purpose. Using this address for either my state campaign or my federal campaign constituted no additional cost to me. All campaign signage displayed at this location specifically promoted the state campaign and these expenses are also properly documented with the Pennsylvania Department of State.

To the uninformed, it would appear curious that while Mr. Hayward first made his accusations public on October 1, 2004 (see enclosed RSC press release), he did not actually file his complaint with the FEC until December 20, 2004 - but to one who knows the facts, it is not curious at all.

On September 24, 2004, in a three-way televised forum, I admonished Republican nominee G. Scott Paterno for unfairly misrepresenting a statement made by our Democrat opponent, Congressman Tim Holden. There is no doubt this caused damage to Mr. Paterno's credibility as a candidate, as it was widely publicized through numerous local media outlets (see Hayward statement; "He's happy to grab headlines;" last paragraph, RSC press release).

In my opinion, Mr. Hayward's accusations of October 1, 2004 were a direct response in an effort to discredit my good name and to have me excluded from another debate, which promised to be the most widely televised of the campaign. In short, his efforts were successful. Contributions to my state campaign fell dramatically after publication of Mr. Hayward's charges and I was, in fact, excluded from the aforementioned debate.

Publicly claiming to take legal action against someone and then not following through could place one in a position of legal liability. It is my opinion that Mr. Hayward's complaint of December 20, 2004 was filed merely as a method of covering his tracks, and in turn, the reputation of the Republican State Committee of Pennsylvania.

In a Statement of Reasons regarding MUR 5338, the FEC's then-Vice Chairman Bradley A. Smith noted:

"Those of us who serve on this Commission know very well that a substantial number of complaints are filed as much to harass and embarrass political opponents prior to an election as to seek redress for any serious violation of law."

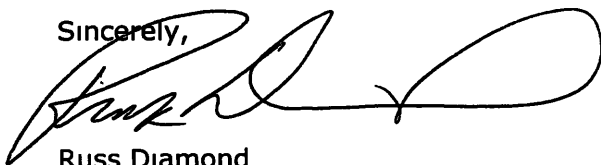
I made my federal campaign finances public shortly after Mr. Hayward's original accusations (see enclosed rusddiamond.org press release). Repeated calls to Mr. Hayward's office went unanswered. Reimbursement to my state committee for federal use of the shared website is evident in documentation easily accessible to the general public. All of Mr. Hayward's stated concerns could have been answered with a simple telephone call to my office.

It is clear that Mr. Hayward's complaint falls squarely within former Vice Chairman Smith's description of "a substantial number of complaints."

Such use of the Commission's complaint process is a disgrace to the dignity of the American electoral process and demonstrates careless disregard for the Commission's authority and resources. Worst of all, it discards the best interests of the American taxpayer in favor of petty political maneuvering. I am disappointed that Mr. Hayward, acting on behalf of the Republican State Committee of Pennsylvania, has embarked upon such a frivolous and wasteful journey.

In conclusion, after considering the Commission's stated confidentiality policy, it is my wish that this matter be made public, as my reputation has been damaged due to Mr. Hayward's actions. Although no counsel represents me at this time, I will reserve the right to such representation in the future.

Sincerely,

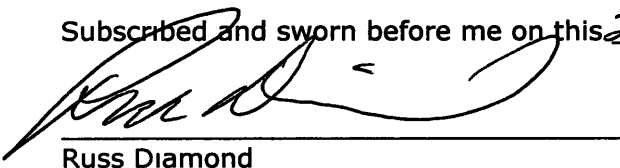
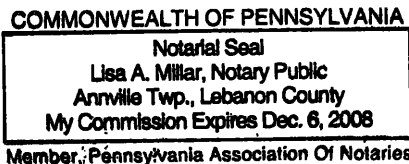


Russ Diamond

Enclosures:

1. Commonwealth of Pennsylvania - Campaign Finance Report (October 18, 2004)
2. Press Release - Republican State Committee of Pennsylvania (October 1, 2004)
3. Press Release - russdiamond.org (October 3, 2004)

Subscribed and sworn before me on this 27th day of January, 2005.


Russ Diamond

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Display Records at a Time

Commonwealth of Pennsylvania - Campaign Finance Report

Part E

Other Receipts

Refunds, Interest Income, Returned Checks, etc.

Name of Filing Committee or Candidate RUSSDIAMOND ORG	Reporting Period Ending 10/18/2004 (Cycle 5)
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There is 1 record for this section of the report.

Records 1 to 1

To sort results by a specific column, click on the name of that column

<u>Full Name</u>	<u>Date</u>	<u>Amount</u>
Russell H Diamond 305 W Sheridan Ave Annville, PA 17003-0000	08/02/2004	\$ 92 66
Description pmt for use of russediamond org website for 17th race		
Total this Page		\$ 92 66

Records 1 to 1

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